

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID CHITYAL,

Petitioner,

v.

HELEN J. MARBERRY, Warden,

Respondent.

Civil Action No. 07-254 Erie

**MEMORANDUM ORDER**

This petition for writ of habeas corpus was received by the Clerk of Court on September 24, 2007 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on August 21, 2009 [32], recommends that the petition for writ of habeas corpus [5] be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail at his address of record and on Respondent. Petitioner filed his objections to the R&R [34] on September 3, 2009. On September 8, 2009 he filed a document styled as a "notice of appeal" [38] from the Magistrate Judge's Report and Recommendation. Petitioner filed further objections to the R&R [42] on September 24, 2009.

After de novo review of the petition and documents in the case, together with the Report and Recommendation and Petitioner's objections thereto, the following order is entered:

AND NOW, this 5<sup>th</sup> day of October, 2009;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus be, and hereby is, DENIED.

The Report and Recommendation of Magistrate Judge Baxter, filed on August 21, 2009 [32] is adopted as the opinion of the Court.

IT IS FURTHER ORDERED, in light of the foregoing, that the Petitioner's pending "Motion Under 28 U.S.C.A. § 2243 For Issuance of Writ, Return, Hearing, Decision" [30] and "Motion to Appoint Counsel & Expedited [sic] Appeal Schedule" [37] be, and hereby are, DENIED as moot.

s/ Sean J. McLaughlin

Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge